

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1360

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-4-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) This section applies to:**

- (1) a convention required or permitted under this title that is conducted by a political party to nominate candidates; or**
- (2) a caucus conducted by a political party under IC 3-13 to nominate candidates.**

(b) The ballots, poll lists, and other documents or material generated for or used by the convention or caucus are the property of the political party. This property shall be retained and preserved in the manner specified by the rules of the political party.

SECTION 2. IC 3-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3. (a) A person who is a candidate for elected office or, after December 31, 2004, a member of a candidate's committee** may not be appointed as:

- (1) a member of a county election board;**
- (2) a proxy of record for a member under section 4.5 of this chapter; or**
- (3) an alternate proxy of record for ~~the~~ a member under section 4.5 of this chapter.**

(b) If an appointed member, a proxy, or an alternate proxy becomes:

- (1) a candidate for elected office; or**

HEA 1360+



C
o
p
y

(2) after December 31, 2004, a member of a candidate's committee;

the member, proxy, or alternate proxy may not continue to serve on the county election board. ~~in addition,~~

(c) An appointed member, a proxy, or an alternate proxy may not hold elected office while a member serving on the county election board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 3. IC 3-6-5.2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) This section applies after December 31, 2004. A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.**

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 4. IC 3-6-5.4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) This section applies after December 31, 2004. A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.**

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 5. IC 3-7-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. An employee of the**

**C
o
p
y**



commission who provides an individual with a driver's license or identification card application shall do the following:

(1) Inform each individual who applies for a driver's license or an identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; ~~or~~

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; ~~or~~

(C) the individual answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ registration **office** of the county where the individual resides concerning the disposition of the voter registration application.

(6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

SECTION 6. IC 3-7-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An employee of the office who provides an individual with an application for assistance or services under section 3 of this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; or

(B) the individual:

(i) declines to register to vote; ~~or~~

(ii) fails to complete the voter registration part of the application; **or**

**C
o
p
y**



(iii) answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ registration **office**.

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ registration **office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 7. IC 3-7-16-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. An employee or a volunteer of the office who provides an individual with an application for assistance or services under this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; ~~or~~

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; ~~or~~

(C) answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ registration **office**.

**C
o
p
y**



(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ registration **office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 8. IC 3-7-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. An employee of the office who provides an individual with an application for assistance or services under this chapter shall do the following:

(1) Inform each individual who applies for assistance or services that the information the individual provides on the individual's voter registration application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; ~~or~~

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; ~~or~~

(C) **answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).**

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application unless the individual refuses assistance, as provided in 42 U.S.C. 1973gg-5(a)(4)(A)(ii).

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the office administrator (or the employee designated by the administrator to be responsible for voter registration services) for transmittal to the appropriate ~~circuit court clerk or board of county voter~~ registration **office**.

(5) Inform the individual that the individual will receive a mailing from the ~~circuit court clerk or board of county voter~~ registration **office** of the county where the individual resides concerning the disposition of the voter registration application.

SECTION 9. IC 3-8-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. A person who files a declaration of candidacy under this chapter may, at any time ~~no~~ **not** later than noon ~~seventy-four (74)~~ **seventy-one (71)** days before the date set for holding the primary election, file a statement with the same office where the person filed the declaration of candidacy, stating that the person is no longer a candidate and does not wish the person's name to appear on the primary election ballot as a candidate.

SECTION 10. IC 3-8-5-11, AS AMENDED BY P.L.167-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

**C
o
p
y**



JULY 1, 2004]: Sec. 11. (a) ~~To determine who may vote at the convention, the standards prescribed by IC 3-10-1-6 through IC 3-10-1-10 for determining political party affiliation at a primary election apply. An individual is eligible to participate in a town convention if the individual meets all the following requirements:~~

- ~~(1) The voter resides in the town on the date the convention is conducted.~~
- ~~(2) The voter became a registered voter of the town not later than the date specified in the rules of the major political party conducting the convention.~~
- ~~(3) The voter subscribes to a statement under the penalties for perjury stating that the individual is affiliated with the political party conducting the convention.~~
- ~~(4) The voter complies with any other requirement for determining political party affiliation set forth in the rules of the major political party conducting the convention.~~

(b) The county election board shall furnish the secretary of the convention a list of all the town's voters. **The list must state the date that the individual became a voter of the town, if the individual became a voter of the town during the year in which the list is furnished.** An individual who wants to vote in a town convention must register with the secretary of the convention **and subscribe to the statement described in subsection (a)(3)** before being permitted to vote in the convention. The secretary of the convention shall note on the list of the town's voters when an individual registers with the secretary.

(c) An individual may not vote at more than one (1) convention held in the town during the same election year.

SECTION 11. IC 3-8-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) **This subsection applies to an office to which only one (1) candidate may be elected.** If a certificate or petition of nomination contains the name of more than one (1) candidate for ~~an elected~~ the office, ~~neither name~~ **none of the names of the candidates on the certificate or petition** may be printed **on the ballot** as a candidate for the office.

(b) **This subsection applies to an office for which more than one (1) candidate may be elected.** If the certificate or petition contains the names of more than the total number of candidates that may be elected to that office, **none of the names of the candidates on the certificate or petition may be printed on the ballot as a candidate for the office.**

SECTION 12. IC 3-9-1-1.5 IS ADDED TO THE INDIANA CODE

HEA 1360+



C
o
p
y

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) This section:**

(1) applies after December 31, 2004; and

(2) does not apply to a national committee of a political party.

(b) For purposes of determining the deadline for filing a statement of organization under section 3 of this chapter, a committee becomes a regular party committee when the committee accepts contributions or makes expenditures during a calendar year:

(1) to influence the election of a candidate for state, legislative, or local office; and

(2) that total more than one hundred dollars (\$100).

SECTION 13. IC 3-10-1-5, AS AMENDED BY P.L.176-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a)** Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination. The appropriate election board shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held. However, except as provided in subsections (b) through (c), if there is a contest in any party for any nomination, the name of each candidate of each party shall be placed on the primary election ballot, whether or not the candidate is opposed.

(b) If the only contest in a political party is for the election of a precinct committeeman or a delegate to the party's state convention, the names of unopposed candidates for nomination are not required to be placed on the primary election ballot unless the appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(c) The names of unopposed candidates for election as a precinct committeeman or a delegate to a political party's state convention are not required to be placed on the primary election ballot unless ~~the~~ **an** appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(d) If a party wants to conduct a primary under subsection (c), ~~the~~ **an appointed member of the county chairman of election board affiliated with** the party must file a notice with the county election board not later than noon seven (7) days after the final date for filing a declaration of candidacy, stating that the party will hold a primary.

SECTION 14. IC 3-10-2-15, AS AMENDED BY P.L.66-2003,

C
o
p
y



SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section applies to a political party whose nominee received at least two percent (2%) but less than ten percent (10%) of the votes cast for secretary of state at the last election for that office.

(b) This section applies only to a local office that is:

- (1) not listed in IC 3-8-2-5; and
- (2) not a municipal office subject to IC 3-8-5-17 or IC 3-10-6-12.

(c) A political party subject to this section shall nominate the party's candidate for a local office at a county convention of the party **conducted not later than noon on the date specified by IC 3-13-1-7(a)(1) for a major political party to act to fill a candidate vacancy.**

(d) The chairman and secretary of the convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee as:
 - (A) the nominee wants the nominee's name to appear on the ballot; and
 - (B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each nominee.
- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- (5) The political party device or emblem by which the ticket will be designated on the ballot.

Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(e) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6.

(f) The certificate required by subsection (d) and the consent required by subsection (e) must be filed with the circuit court clerk of the county containing the greatest percentage of population of the election district for which the candidate has been nominated by the convention not later than noon ~~July 15~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.**

(g) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the

C
o
p
y



candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county. The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(h) A question concerning the validity of a candidate's nomination under this section shall be determined by a county election board in accordance with IC 3-13-1-16.5(b) and IC 3-13-1-16.5(c).

(i) A nominee who wants to withdraw must file a notice of withdrawal in accordance with IC 3-8-7-28.

SECTION 15. IC 3-10-6-12, AS AMENDED BY P.L.202-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) This section applies to a political party:

- (1) not qualified to conduct a primary election under IC 3-10; and
- (2) not required to nominate candidates by a petition of nomination under IC 3-8-6.

(b) The political party may conduct a convention to nominate candidates for city or town office **not later than noon on the date specified by IC 3-13-1-7(a)(1) for a major political party to act to fill a candidate vacancy.**

(c) The chairman and secretary of the convention shall execute and acknowledge a certificate setting forth the nominees of the convention in accordance with IC 3-8-5-13. The certificate must be filed with the circuit court clerk of the county containing the greatest percentage of population of the municipality not later than noon ~~August 28~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.**

(d) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6. The consent must be filed with the certificate under subsection (c).

(e) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county

C
o
p
y



shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(f) A question concerning the validity of a candidate's nomination under this section shall be determined by a county election board in accordance with IC 3-13-1-16.5(b) and IC 3-13-1-16.5(c).

(g) A nominee who wants to withdraw must file a notice of withdrawal in accordance with IC 3-8-7-28.

SECTION 16. IC 3-10-7-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.9. **(a) This section does not apply to a town located wholly or partially within a county having a consolidated city.**

(b) During the year preceding a municipal election conducted under section 2 of this chapter, a town may adopt an ordinance changing the time municipal elections are held for the offices of the town legislative body members, clerk-treasurer, and judge.

(c) The ordinance described in subsection (b) must provide all the following:

- (1) The years in which town elections shall be held. A town election may not be held in a year following a year in which an election for electors for President of the United States is held.**
- (2) That the elections for town offices shall be held during general elections or municipal elections, or both.**
- (3) Which town officers are to be elected in each of the years of the town election cycle. The ordinance must provide that at least two (2) town officers shall be elected in each year of the town election cycle. The ordinance may provide for all town officers to be elected at the same election.**
- (4) The term of office of each town officer elected in the first election cycle after adoption of the ordinance. A term of office set under this subdivision may not exceed four (4) years.**
- (5) That the term of office of each town officer elected after the first election cycle after adoption of the ordinance is four (4) years.**
- (6) That the term of office of each town officer begins on January 1 after the election.**

(d) A town may repeal an ordinance adopted under subsection (b) subject to both of the following:

- (1) The ordinance may not be repealed earlier than twelve (12) years after the ordinance was adopted.**
- (2) The ordinance may be repealed only in a year preceding a municipal election held at the time described in IC 3-10-6-5.**

**C
o
p
y**



SECTION 17. IC 3-10-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. If a town has established staggered terms for its town council, or has adopted an ordinance under section 2.7 **or 2.9** of this chapter, the county election board shall conduct a municipal election in that town that coincides with a general election.

SECTION 18. IC 3-11-8-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. A poll clerk may record the names of individuals who have signed the poll list and make that record available to a watcher or pollbook holder who requests the information. However, the poll clerk must ensure that:**

- (1) a voter is not delayed in casting the voter's votes as a result of the preparation of the record, or by providing the information; and**
- (2) the poll clerk does not engage in electioneering (as defined under IC 3-14-3-16) in providing this information.**

SECTION 19. IC 11-10-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. Upon the discharge of a criminal offender, the department shall **do the following:**

- (1) Certify the discharge to the clerk of the sentencing court, ~~Upon receipt of the certification, the clerk who~~ shall make an entry on the record of judgment that the sentence has been satisfied.**
- (2) Inform the criminal offender in writing of the right to register to vote under IC 3-7-13-5.**
- (3) Provide the criminal offender with a copy of the voter's bill of rights prescribed by the Indiana election commission under IC 3-5-8.**

SECTION 20. **An emergency is declared for this act.**

**C
o
p
y**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

**C
o
p
y**

HEA 1360+

